IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.297 OF 1997

Ibrahim Yakub Chouse & Anr...Appellants

Versus

Sou. Shahapari Makbul Mujawar.. Respondent

Mr. Prathamesh Bhargude h/f. Mr. A.V. Anturkar for the Appellant.

CORAM : S.R. SATHE,J.
DATED : 23/07/2007

P.C. :-

1. Heard learned Advocate Mr. Prathamesh Bhargude h/f. Mr. A.V. Anturkar for the Appellant.

2. Plaintiff filed suit for partition and separate possession against her real brothers and cousin brothers. Both the Courts below held that Plaintiff is entitled for 1/5th share while her brothers i.e. defendant Nos. 1 and 2 would each get 2/5th share. Though, learned Advocate for the Appellant tried to argue before me that the share calculated by the Courts below is not correct. After the perusal of the provisions of Hanafi Law of Succession and inheritance and in particular Paragraph-45 of Commentary on Mohammedan Law it is clear that daughter takes as a residuary with the son, the son taking a double portion. Both the Courts below have in fact accordingly

granted in the instant case 1/5th share to Plaintiff and to her brothers i.e. defendant Nos.1 and 2, 2/5 each i.e. double the share of the Plaintiff. So, there is no error of law and in fact no any substantial question of law is involved in this appeal.

3. Hence, appeal is dismissed.

4. Under the circumstances of the case parties to bear their own costs of this appeal.

(S.R. SATHE,J.)